

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	:	
	:	
Annual formula rate update and	:	Docket No. 12-0321
revenue requirement reconciliation	:	
authorized by Section 16-108.5 of the	:	
Public Utilities Act.	:	

BRIEF ON EXCEPTIONS OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION

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Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to Section 200.830 of the Rules of Practice (83 Ill. Adm. Code 200.800), respectfully submits its Brief on Exceptions to the Proposed Order issued by the Administrative Law Judges (“ALJs”) on November 15, 2012 (“ALJ Proposed Order” or “ALJPO”) in the above-captioned matter.

I. BACKGROUND

The ALJPO was issued following the conclusion of the evidentiary hearing held on September 25, 2012 and the filing of initial and reply briefs by Staff, Commonwealth Edison Company (“ComEd”), the People of the State of Illinois (“AG”) and AARP (“AG/AARP”), and the Citizens Utility Board (“CUB”). Although Staff supports many of the ALJPO’s conclusions, there are some issues to which Staff takes exception to as set forth below.

II. ARGUMENT

A. Overall Revenue Requirement [II., A, B and C]

Argument

Language changes are necessary to clarify which numbers for the 2013 inception revenue requirement, 2011 reconciliation and ROE collar adjustments, and total revenue requirement reflect ComEd's and Staff's positions and to identify the final numbers based on the Order in this proceeding.

Additionally, Staff and the Intervenors proposed various adjustments to the revenue requirement proposed by ComEd. Therefore, it is incorrect for the ALJPO to state that neither Staff nor the Intervenors took issue with the amounts for ComEd's 2011 reconciliation and ROE collar adjustments and its total revenue requirement. Accordingly, that language should be deleted.

Proposed Modification (ALJPO, pp. 3-4)

* * *

~~ComEd states that before adding the reconciliation and return on equity ("ROE") collar adjustments which are discussed below, its revenue requirement is \$1,959,382,000. ComEd Ex. 19.1, Sch FR A-1. After application of the rulings in the Commission's Order on Rehearing in Docket 11-0721, (ComEd's previous formula rate case) the final revenue requirement that ComEd seeks, before the Reconciliation and ROE Collar adjustments, is \$2,030,958,000. ComEd Ex. 23.0, Sch FR A-1. Staff's final revenue requirement, before the Reconciliation and ROE Collar adjustments, is \$2,030,096,000. Staff RB, Appendix A, p. 1. The revenue requirement per the Order, before the Reconciliation and ROE Collar adjustments, is \$2,029,995,000. Appendix A, p. 1.~~

* * *

The total revenue requirement (the net revenue requirement per the formula rate template) to be reflected in delivery service charges beginning in January of 2013 includes a reconciliation adjustment and a ROE collar adjustment. The reconciliation adjustment reflects the reconciliation of the revenue requirement approved pursuant to previous ComEd rate orders that are in effect in 2011, weighted with the actual revenue requirement for 2011. ComEd Ex. 2.0 at 6. ComEd's reconciliation adjustment, including interest, is a reduction of \$24,035,000 to ~~theits~~ revenue requirement discussed in II.A herein. Staff's reconciliation adjustment, including interest, is a reduction of \$24,912,000 to its revenue requirement discussed in II.A herein. Staff RB, Appendix A, p. 1. The reconciliation adjustment, including interest, per the Order is a reduction of \$25,014,000 to the Ordered revenue requirement in II.A herein. Appendix A, p. 1.

The ROE collar adjustment reflects the differences in revenue levels between those that resulted from application of historical weather-normalized billing determinants used to determine rates in effect during 2011 and the actual revenues for 2011. ComEd Init. Br. at 5. Its ComEd and Staff agree that the ROE collar adjustment is an increase of \$18,030,000 to the respective revenue requirement discussed in II.A herein. ComEd Ex. 49.423.0, Sch FR A-1; Staff RB, Appendix A, p. 1. Per the Order, the ROE collar adjustment is an increase of \$18,030,000, also, to the Ordered revenue requirement in II.A herein. Appendix A, p. 1. ~~Neither Staff nor the intervenors took issue with these amounts.~~

* * *

The total revenue requirement includes the final 2012 revenue requirement, the 2011 reconciliation adjustment, and the ROE collar adjustment, and reflects~~The revenue requirements that are attached to Staff's Reply Brief (Appendices A & B) reflect the conclusions from the Order on Rehearing entered on October 3, 2012 in Docket 11-0721. Pursuant to the Order on Rehearing: (1) ComEd is allowed to recover pension funding costs on the amount listed as a pension asset in its FERC Form 1; and (2) the interest on reconciliation adjustments is to be calculated using ComEd's cost of short-term debt. Order on Rehearing, Docket 11-0721, October 3, 2012 at 24, 36. As a result, there are two changes to the revenue requirements reflect: (1) an addition of \$71,576,000 to expense for pension asset funding cost; and (2) a change in the interest rate, from 3.42% to 0.71%. Neither change affected the ROE collar adjustment, but the Staff's reconciliation adjustment decreased from a negative \$103,001,000 to a negative \$24,910,000.~~

After including these changes, ComEd's proposed total revenue requirement, upon which, the rates in 2013 will be based, is \$2,024,953,000. ComEd Ex. 23.0, Sch FR A-1. Staff's proposed total revenue requirement is \$2,023,214,000. Staff RB, Appendix A, p. 1. The total revenue requirement per the Order is \$2,023,011,000. Appendix A, p. 1. ~~Neither Staff nor the intervenors contested the propriety of ComEd's proposed total revenue requirement.~~

* * *

B. Rate Base, Overview [III., A]

Argument

Staff agrees with the amounts of ComEd's final revised proposed rate bases as stated within the Order; however, as written, it is not apparent what average rate base amount is to be utilized for the reconciliation. Therefore, Staff suggests additional clarifying language be added to avoid confusion, as set forth below.

Proposed Modification (ALJPO, p. 4)

* * *

III. RATE BASE

A. Overview

ComEd's final revised proposed year-end rate bases are \$6,025,650,000 for the reconciliation year and \$6,367,003,000 for the projected year ~~piece~~ of this proceeding; (See, ComEd Ex. 19.1, Sch. FR B-1, lines 28 and 36). Using the average rate base method for the reconciliation figure, ComEd's average rate base for reconciliation purposes is \$6,079,759,000 (See, ComEd Ex. 19.1, Sch. FR A-1-REC, line 14). ComEd states that its rate bases are calculated using final 2011 FERC Form 1 balances, functionalization of plant between the transmission and distribution functions, the applicable ratemaking adjustments consistent with the statute, plus its estimated 2012 plant additions, and also minus the corresponding updating of its accumulated reserve for depreciation and amortization. ComEd Ex. 3.0 REV at 18-20. The contested adjustments to rate base proposed by various Intervenor and Staff are discussed in Section III.C of this Order.

* * *

C. Rate Base, Potentially Contested Issues, Cash Working Capital [III., C., 1]

Argument

The ALJPO errs in characterizing the \$36,000 difference between ComEd's and Staff's Cash Working Capital ("CWC") amounts as unexplained. CWC is a derivative adjustment based on the revenue requirement. Because of proposed expense adjustments, Staff's revenue requirement differs from that of the Company. The \$36,000 reflects the effect of that difference on CWC. The final balance of CWC will be based on the revenue requirement approved by the Commission in this proceeding.

Proposed Modification
(ALJPO, pp. 8-9)

* * *

Staff's Position

Because CWC is a derivative adjustment based on the revenue requirement, the final balance of CWC should be calculated using the revenue requirement approved by the Commission in this proceeding. Once that revenue requirement is determined, Staff believes there is no dispute between the Company and Staff as to how CWC is calculated for purposes of this proceeding. (Staff RB, p. 4) According to Staff, the Commission need not make any decision in this proceeding regarding Cash Working Capital. Staff stated that Although ComEd does not agree with Staff's methodology regarding the treatment of negative current income taxes and the associated deferred income taxes in the Cash Working Capital calculation, ComEd does not dispute that Staff's treatment of said taxes in the instant proceeding is consistent with the final Order that the Commission entered in Docket 11-0721, on May 29, 2012. In that Order, the Commission explicitly approved Staff's treatment of current and deferred income taxes in the Cash Working Capital calculation. According to Staff, Accordingly, the Commission need not make any decision in this proceeding regarding the treatment of income taxes in the calculation of Cash Working Capital. Staff Initial Brief at 8-9.

Analysis and Conclusions

There are really three two issues here ~~the unexplained \$36,000 difference between ComEd's figures and those provided by Staff~~; whether a statement in another rate proceeding regarding a different utility, which could involve different facts, is a party-admission on the part of Commission Staff; and whether at some point in the future, the formula rate methodologies regarding these taxes should be

revisited for purposes of consistent treatment of utilities. ~~With regard to the first issue, Staff does not argue that ComEd's figures should be adjusted by this amount. Therefore, we conclude that the propriety of ComEd's determination that this \$36,000 should be excluded from Cash Working Capital has been established.~~

With regard to the last second issue, the Commission concludes that, if the methodologies align in the future or new evidence is presented, the issue of computation of certain taxes (set forth above) should be revisited. While consistency in treatment of utilities is not always possible due to the fact that there are different factual situations amongst utilities, consistency is a desirable result.

This leaves the ~~second~~ first issue pertaining to the admissibility of evidence from another case as a Staff admission under the facts presented. The paragraph directly above acknowledges that a different tax treatment took place in the first Ameren formula rate case, Docket 12-0001. It also acknowledges that this issue may be revisited in the future. Therefore, the issue of what was done in that case and its impact on future ComEd rate cases appears to be moot.

* * *

D. Operating Expenses, Potentially Contested Issues, Administrative and General Expenses, Charitable Contributions [V., C.,1., a]

Argument

The ALJPO erroneously rejects Staff's adjustments to disallow ComEd's contributions of \$10,000 to the Metropolitan Mayors' Caucus and \$376,000 in donations made to non-charitable organizations. (ALJPO, p. 44)

The ALJPO states that Staff incorrectly interprets Section 9-224 because:

...the Metropolitan Mayors' Caucus is involved in community and economic development, including working towards affordable housing. ComEd asserts that the donation was made to the Metropolitan Mayors' Caucus to further the organization's community and neighborhood development and economic development activities, and the Commission finds no evidence to dispute this assertion. The Commission agrees with ComEd that the fact that the organization might engage in some political activity does not necessarily mean the Company's contribution must be disallowed under Section 9-224 of the Act. (*Id.*)

However, Section 9-224 of the Act states: "The Commission shall not consider as an expense of any public utility company, for the purposes of determining any rate or

charge, **any amount expended for political activity or lobbying** as defined in the 'Lobbyist Registration Act.'" (220 ILCS 5/9-224)(emphasis added) As Staff correctly asserts in its Briefs, there is no way to know whether ComEd's donations were used to "further the organization's community and neighborhood development." (Staff IB, pp. 19-20; Staff RB, pp. 11) ComEd has the burden of proof to show its donations appropriately meet the requirements of Sections 9-224 and 9-227 and has not shown that its donation was used as such. Under the Act, the Commission's review of ComEd rates under Section 16-108.5 is to be "based on the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, the Commission applies in a hearing to review a filing for a general increase in rates under Article IX of this Act." (220 ILCS 6/16-108.5(c)(6)) Section 9-201(c) of the Act provides that when the "Commission enters upon a hearing concerning the propriety of any proposed rate or other charge, ...In such hearing, the burden of proof to establish the justness and reasonableness of the proposed rates or other charges ... shall be upon the utility." (220 ILCS 5/9-201(c)) The ALJPO states that "there is no argument that ComEd made the donation for charitable purposes." (ALJPO, p. 44) This is inaccurate. While Staff does not dispute the fact that ComEd's intention was to make a charitable donation to the Metropolitan Mayors' Caucus, ComEd has not shown that its donation was not used for political activity or lobbying, two activities that no party disputes that the Caucus *does* engage in. Again, ComEd has the burden of proof to show that its donation was used properly and has not done so. The Commission's Final Order should accept Staff's recommended disallowance of \$10,000 for this donation.

For the same reasons, the Commission should accept Staff's disallowance for ComEd's donation to the American Legion. ComEd has not shown that its donation was not used for political activity, in contravention of Section 9-224 of the Act. Staff disagrees with the ALJPO's reasoning that because such donations were allowed in the past, they should be allowed in this Docket. (ALJPO, p. 44) However, as the Commission is aware, Commission decisions are not *res judicata*, and therefore the Commission is not bound to follow past precedent. (See *United Cities Gas Co. vs. Illinois Commerce Comm'n*, 163 Ill.2d 1, 22-23 (1994)) The Commission is in fact required to make its decision exclusively on the facts of the record evidence before it. (220 ILCS 5/10-113) The ALJPO cites Docket No. 04-0442 as support for its argument that ComEd's American Legion donation should be paid for by ratepayers. In that docket, however, that company's \$1,000 donation was used to provide a July 4 celebration to honor veterans, according to the record. (Order, Docket No. 04-0442, April 20, 2005, p. 31) Again, Staff does not dispute the fact that the American Legion does engage in charitable activity as allowed under Section 9-227 of the Act, but that ComEd must show that its donation was used as such. Here, similar to the Mayors' Caucus donation, ComEd has not shown what its donation was used for by the organization, and therefore, Staff recommends its donation be disallowed.

Next, the ALJPO states:

The Commission notes that Staff listed dockets wherein the Commission "concluded that the specific contributions to economic and community development organizations at issue were more properly categorized as industry dues that should be shouldered by shareholders." However, unlike in the dockets cited by Staff, there is no evidence in the record in this proceeding that these contributions afforded ComEd membership benefits or related to industry dues.

Staff also proposes disallowances to non-charitable organizations that represent arts and culture, arguing that these contributions are not recoverable under Section 9-227 of the Act. The Commission finds that the term "public welfare" should be taken in its normal meaning, in essence contributing to the general good of the public. ComEd argues that these contributions are for the public welfare, and the Commission agrees in this case. The Commission declines to adopt a position, as Staff would suggest, that arts and culture are not in the public welfare. (ALJPO, p. 45)

As stated in Briefs, the Commission concluded in its Order in Docket No. 12-0001 that for a donation to meet the Section 9-227 "public welfare" requirement, it must benefit the rate paying public in the utility's service territory. (Order, Docket No. 12-0001, September 19, 2012, p. 79) Specifically, the Order notes the importance of providing easily discoverable and reviewable information regarding the nature and purpose of the contributions. (*Id.*) ComEd has failed, in Staff's view, to provide sufficient evidence to demonstrate that these donations meet the Section 9-227 requirements, and Staff recommends the donations be disallowed. While Staff agrees with the ALJPO that the term public welfare should be taken in its normal meaning, the statute requires the Commission also make a determination of "reasonableness" and out-of-service territory donations are not reasonable. (Staff RB, p. 11)

While Staff does not dispute that arts and culture might be "within the public welfare" as the ALJPO claims, ComEd has failed, in Staff's view, to provide sufficient evidence to demonstrate that these donations meet the Section 9-227 requirements, and Staff recommends the donations be disallowed. The only evidence ComEd provided in the record that these donations provide for the public welfare is the classification of the donations as Community and Neighborhood Development/Economic Development, Community and Neighborhood Development,

Community Service, Arts and Culture/Performing Arts, or Community Involvement. (ComEd Exs.13.05 and 13.10) This is not sufficient evidence that these donations provide for the public welfare, and such donations should be disallowed. Staff recommends the ALJPO be modified, as follows:

Proposed Modification
(ALJPO, pp. 44-45)

The Commission disagrees with Staff's remaining proposed disallowances to charitable contributions, notably the donation to the Metropolitan Mayors' Caucus and donations made to non-charitable organizations. Staff argues that recovery of the \$10,000 donation to the Metropolitan Mayors' Caucus is improper because the Metropolitan Mayors' Caucus is a political organization. Staff argues that money is fungible and therefore the Company cannot ascertain whether the money donated to an organization that is active in politics was used for the public welfare or for political purposes. ComEd maintains that the donation was made for charitable purposes and that the organization is involved in community and neighborhood development and economic development. ~~There is no argument that ComEd made the donation for charitable purposes. Rather, t~~The question is not whether the donation is barred by Section 9-224 of the Act but rather is there sufficient evidence in the record to make such a determination. Section 9-224 of the Act provides that: "The Commission shall not consider as an expense of any public utility company, for the purposes of determining any rate or charge, any amount expended for political activity or lobbying as defined in the 'Lobbyist Registration Act.'" There is no question that the Metropolitan Mayors' Caucus is involved in political activity as defined by the Lobbyist Registration Act. ~~community and economic development, including working towards affordable housing. However, ComEd has provided no evidence that asserts that the donation was made to the Metropolitan Mayors' Caucus was used to further the organization's community and neighborhood development and economic development activities rather than supporting the political activities with which the Caucus is involved, and the Commission finds no evidence to dispute this assertion.~~ The Commission agrees with ~~ComEd~~ Staff that the fact that the organization might engage in some ~~political~~ charitable activity does not necessarily mean the Company's contribution ~~must be disallowed~~ is recoverable from ratepayers under Section 9-2247 of the Act. Section 9-201 of the Act states, "...the burden of proof to establish the justness and reasonableness of the proposed rates or other charges... shall be upon the utility." The Company has not met that burden of proof and the donation is therefore disallowed. ~~Moreover, the Commission notes that it~~

~~has allowed recovery of charitable contributions to this organization in the past.~~

Staff further argues that the contribution to the American Legion, which is included in the non-charitable organization contribution disallowance, should also be rejected on the basis that the organization has "great political influence" and the Company has not provided sufficient evidence that it was not the political activity which was supported by the Company's donation. ~~according to its web page.~~ The Commission disagrees with Staff's argument using the same reasoning as above regarding the Metropolitan Mayors' Caucus,⁷ ~~and again, the Commission has allowed contributions to this organization in the past. See Docket 04-0442, Order at 31-32.~~

~~In Docket 12-0001, the Commission rejected an argument by Staff to disallow recovery of donations to organizations based on whether the organization is tax exempt pursuant to Section 501(c)(3) of the internal Revenue Code. While Staff notes the Commission's decision in Docket 12-0001, Staff again proposes to disallow donations for the public welfare which are not made to Section 501(c)(3) organizations. The Commission rejected reliance on Section 501(c)(3) on the basis that it "does not provide the intended clarity as to when a donation made or the "public welfare" would be recoverable from ratepayers." Docket 12-0001, Order at 79. As in Docket 12-0001, the Commission will take at face value the record evidence that these contributions were made for the public welfare or scientific, educational, or religious purposes.~~

~~The Commission notes that Staff listed dockets wherein the Commission "concluded that the specific contributions to economic and community development organizations at issue were more properly categorized as industry dues that should be shouldered by shareholders." However, unlike in the dockets cited by Staff, there is no evidence in the record in this proceeding that these contributions afforded ComEd membership benefits or related to industry dues.~~

Staff also proposes disallowances to non-charitable organizations that represent arts and culture, community and neighborhood development, community service and community involvement, arguing that these contributions have not been sufficiently supported and therefore are not recoverable under Section 9-227 of the Act. The Commission finds that these types of organizations engage in charitable activities as well as non-charitable activities and it is incumbent upon the utility to provide evidence that donations are used for charitable activities. Absent such evidence, the donations are unrecoverable. ~~term "public welfare" should be taken in its normal meaning, in essence contributing to the general good of the public. ComEd argues that these contributions are for~~

~~the public welfare, and the Commission agrees in this case. The Commission declines to adopt a position, as Staff would suggest, that arts and culture are not in the public welfare.~~

Accordingly, the Commission adopts Staff's adjustment to disallow contributions to organizations outside the Company's service territory, and ~~rejects~~ Staff's other recommended disallowances to recovery of unsupported charitable contributions.

E. Other, Potentially Contested Issues, Presentation of ROE Collar Adjustment on Schedule FR A-3 and WP22 [VIII., C., 1]

Argument

There are two separate issues regarding the ROE Collar Adjustment. The first issue relates to the ROE Collar Adjustment attached to the direct testimony of Staff witness Burma Jones, which was calculated incorrectly as noted in the rebuttal testimony of ComEd witness Kathryn Houtsma. Staff agreed and a corrected collar calculation was attached to Ms. Jones' rebuttal testimony.

The second issue relates to modifications to Schedule FR A-3, ROE for Collar Computation, and related workpaper 22 to promote clarity regarding the calculation of applicable operating revenues. Language in the ALJPO states that Staff revised (corrected) its proposal regarding the modifications in its rebuttal testimony. This is incorrect, as Staff did not propose the modifications until rebuttal testimony. The ALJPO appears to be confusing the correction of the ROE collar adjustment (discussed in the preceding paragraph) with the proposed modifications to Schedule FR A-3 and workpaper 22.

Proposed Modification
(ALJPO, p. 74)

* * *

C. Potentially Contested Issues

1. Presentation of ROE Collar Adjustment on Schedule FR A-3 and WP 22

To promote clarity regarding the calculation of applicable operating revenues for the ROE collar adjustment, Staff proposed modifications to Schedule FR A-3, ROE for Collar Computation, and related worksheet 22 ("WP 22"). Staff ~~revised (corrected) that proposal~~ presented the proposed modifications in its rebuttal testimony, and asked that ComEd's surrebuttal testimony indicate: (1) ComEd's position on this presentation item and (2) how this item could be effectuated given that it involves the formula. Staff Ex. 6.0 at 9-10. ComEd's surrebuttal agreed to the presentation item as ~~revised~~ proposed in Staff's rebuttal, and indicated that ComEd planned to file a motion to revise its additional August 12, 2012, compliance filing in ICC Docket No. 11-0721 to effectuate this item (without taking a legal position on whether this item could be addressed in the instant Docket). ComEd Ex. 18.0 at 4-5. No intervenor contested this item. On October 17, 2012, ComEd filed a ministerial motion to address that presentation item in ICC Docket 11-0721. Staff filed its response on October 26, 2012, and did not oppose ComEd's motion.

* * *

F. Other, Potentially Contested Issues, Section 16-108.5 of the PUA, Contributions to energy-low income support programs. [VIII.,C., 3., b]

Argument

Staff concurs with the conclusion reached in the ALJPO that ComEd shall file specific evidence regarding its expenditures pursuant to Section 16-108.5(b-10) in every rate case filing it makes pursuant to Section 16-108.5, and that in future Section 16-108.5 filings, ComEd shall proffer evidence in its case-in-chief establishing what it did to meet (including, but not limited to, its expenditures) the low-income and support programs that are required by Section 16-108.5(b-10), as set forth by the Commission Staff and AG/AARP. For purposes of providing greater clarity within the cited Staff

recommendations, Staff respectfully suggests edits be adopted to more directly state the Staff recommendations as proffered in testimony and briefs.

Proposed Modification
(ALJPO, p. 90)

* * *

Staff posits that it is well-established that the Commission is vested with authority to do what is reasonably necessary to accomplish the legislature's objective, citing *Abbott Laboratories, Inc.*, 289 Ill. App. 3d at 712, 682 N.E.2d at 347. Staff recommends the following:

1. ~~Requiring~~The Commission should require that ComEd, in each formula rate proceeding, ~~to identify in its case-in-chief direct testimony;~~ the costs included in the rate year revenue requirement that are incurred in the applicable year ~~that are in compliance with,~~ or in meeting, the requirements for contributions to energy low-income and support programs in Subsection 16-108.5(b-10) of the Act and that were excluded from the requested revenue requirement, and to provide evidence that the costs were excluded;
2. In each Order establishing the rates resulting from a formula rate proceeding, ~~clearly identifying in the Commission should clearly identify in its that~~ Order, the costs which ComEd incurred in the applicable year in complying with, or in meeting the requirements for contributions to energy low-income and support programs of Subsection 16-108.5(b-10) of the Act and to indicate that those specific costs were properly excluded from the approved revenue requirement;
3. ~~Including~~The Commission should include the following language in the Findings and Orderings paragraphs of its Order in this proceeding:

(#) The Commission, based on the record in this proceeding, finds that the utility incurred in 2011 \$0 in compliance with or in meeting the requirements for contributions to energy low-income and support programs of Section 16-108.5(b-10) of the Act, and that said costs have been excluded from the approved revenue requirement ~~in a manner that is in accordance with Section 16-108.5(b-10) of the Public Utilities Act.~~ (Staff Ex. 7.0, Attachment C)

Staff Initial Brief at 51-52.

* * *

G. Other, Potentially Contested Issues, Format of Revenue Requirement Schedules and Related Documents, Use of traditional schedules as an attachment to the Commission's final orders in the formula rate proceedings. [VIII., C., 4., b]

Argument

Language should be included in the "Commission Analysis and Conclusion" on page 96 of the ALJPO to clarify that App 3 relates to Cash Working Capital rather than the ROE Collar Adjustment.

Proposed Modification
(ALJPO, p. 96)

* * *

Commission Analysis and Conclusion

ComEd and Staff agree that Sch. FR A 3, and WP 22, ~~and App 3~~ should be corrected and revised as to the ROE Collar adjustment, as discussed here and in Section VIII.C.1, supra. App 3 should be corrected as to descriptions of portions of the Cash Working Capital calculation. This issue is These issues are uncontested and should be approved.

* * *

H. Findings and Ordering Paragraphs [X.]

Argument

Finding (6) errs in stating that the net annual operating income of \$480,075,000 reflects the Reconciliation and ROE Collar adjustments. The net annual income of \$480,075,000 relates only to the filing year ending December 31, 2012 and is separate and apart from said adjustments.

Proposed Modification
(ALJPO, p. 97)

* * *

(6) the rates of return set forth in Finding (5) result in tariffed operating revenues of \$2,023,011,000 (which reflects the Reconciliation and ROE Collar adjustments) and net annual operating income of \$480,075,000 (~~both figures reflecting the reconciliation and ROE Collar adjustments~~);

* * *

III. CONCLUSION

WHEREFORE, for all of the following reasons, Staff respectfully requests that the Commission's order in this proceeding reflect all of Staff's recommendations regarding the Company's tariffs and charges submitted pursuant to Section 16-108.5 of the Public Utilities Act.

Respectfully submitted,

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